

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

DEPUTY CLERK

UNITED STATES OF AMERICA

v.

JOSE MIRAMONTES FLORES

Case No. 5:18-cr-00002

By: Elizabeth K. Dillon
United States District Judge

MEMORANDUM OPINION AND ORDER

The government has requested a continuance of sentencing to a date on or after August 6, 2018, which is less than 60 days from the current sentencing date of June 13, 2018, to have additional time to contest the defendant's position that he qualifies for safety valve relief. The government asserts that it will need to conduct additional investigation to verify this. Flores opposes the continuance. He argues that a continuance would violate his right to a speedy trial. Courts have determined, however, that the Sixth Amendment's Speedy Trial Clause does not apply to postconviction, presentencing delay. *Betterman v. Montana*, 136 S. Ct. 1609, 1611 (2016). Furthermore, Flores has not demonstrated that this continuance is an unnecessary delay that prejudices him.

"The district court's decision to deny a continuance is reviewed for abuse of discretion." *U.S. v. Smith*, 7 Fed.Appx. 254, 255 (4th Cir. 2001); *see also U.S. v. Speed*, 53 F.3d 643, 644-45 (4th Cir. 1995) (stating that a district court has broad discretion in scheduling and sentencing proceeding and that one must show that the continuance decision was arbitrary and substantially impaired the defendant's opportunity secure a fair sentence). The court is not convinced that the

continuance is unreasonable, an abuse of discretion, or unfair to defendant. Moreover, the court finds the government's basis for continuance compelling.

In accordance with the reasons stated above, it is hereby ORDERED that the United States' motion to continue sentencing is GRANTED. Counsel are instructed to contact the Clerk to reschedule the sentencing hearing.

Entered: June 11, 2018.

/s/ Elizabeth K. Dillon
Elizabeth K. Dillon
United States District Judge